

I Got You, Babe!

In honor of the Sonny Bono Law

by Declan McCullagh
December 5, 2007

In the aftermath of the \$222,000 jury verdict that the Recording Industry Association of America recently won against a Minnesota woman who shared 24 songs on Kazaa, the U.S. Congress is preparing to amend copyright law.

Politicians want to increase penalties for copyright infringement.

It's no joke. Top Democrats and Republicans in the U.S. House of Representatives on Wednesday introduced a sweeping 69-page bill that ratchets up civil penalties for copyright infringement, boosts criminal enforcement, and even creates a new federal agency charged with bringing about a national and international copyright crackdown.

"By providing additional resources for enforcement of intellectual property, we ensure that innovation and creativity will continue to prosper in our society," Judiciary Committee Chairman John Conyers (D-Mich) said in a statement.

The legislation, called the Prioritizing Resources and Organization for Intellectual Property Act, or PRO IP Act, is thoroughly bipartisan. The top Republican, Lamar Smith of Texas, on the Judiciary committee is a

sponsor. So is Howard Berman (D-Calif.), the chair of the subcommittee that writes copyright law, and Adam Schiff (D-Calif.) and Bob Goodlatte (R-Va.).

The Motion Picture Association of America, which has long championed stiffer copyright laws such as this fall's legislation aimed at file trading at universities, applauded the PRO IP Act as well.

"I believe that the American business community can speak in one voice today in support of these legislative efforts to protect intellectual property," MPAA Chairman Dan Glickman said in a statement. "I am pleased to see a concerted effort by Congress to address this growing problem, and the MPAA looks forward to working with congressional leaders in the weeks to come."

Here are some of the major sections of the PRO IP Act:

- Fines in copyright cases dealing with compilations would be increased. Right now, as in the case of *Xoom v. Imageline*, the maximum penalty for infringement of one compilation is \$30,000. Now courts would be able to make "multiple awards of statutory damages" when compilations are infringed.
- Maximum penalties for repeat copyright offenders would be easier to obtain. Current law says that anyone who "willfully" infringes a copyright by distributing over \$1,000 worth

of material (including over a peer-to-peer network) is a criminal. The PRO IP Act keeps the 10-year prison term intact for felonious repeat offenders — but, crucially, deletes the requirement that repeat offenders must have distributed at least 10 copyrighted works within 180 days.

- Any computer or network hardware used to "facilitate" a copyright crime could be seized by the Justice Department and auctioned off. The proceeds would be funneled to the agency's budget. The process is called civil asset forfeiture, and typically the owner does not need to be found guilty of a crime for his property to be taken.

Probably the most extensive part of the PRO IP Act is its creation of a new federal bureaucracy called the White House Intellectual Property Enforcement Representative, or WHIPER. The head of WHIPER would be appointed by the president and confirmed by the Senate.

WHIPER seems to be modeled after the U.S. Trade Representative, with the head of the new agency bearing the rank of "Ambassador Extraordinary and Plenipotentiary." WHIPER's head is charged with being the president's principal advisor and spokesman for intellectual property matters, as well as identifying countries that don't adequately protect IP rights. It gets to create its own official seal as well, and the WHIPER head appears to

be paid as well as the attorney general and secretary of defense (\$186,600 in 2007).

One of WHIPER's major tasks would be to create a "Joint Strategic Plan" that, in part, involves "identifying individuals" involved in the "trafficking" of "pirated goods." An annual report is due to Congress by December 31 of each year. In addition, 10 "intellectual property attaches" are intended to be dispatched to embassies around the world.

Finally, the U.S. Justice Department's intellectual property enforcement apparatus would be completely revamped. An "Intellectual Property Enforcement Division" would be created and subsume the IP-related functions that the department's computer crime section

in the criminal division currently performs. The new division would receive \$25 million per year to start with.

[Editor's Note: This article may not have much to do with the Amiga, but when I read it, I saw red and had to share. This is insane. Shouldn't we be writing laws that punish those who copy and distribute in mass quantities rather than trying to pick on the easy targets? When a woman who shared 24 songs is liable to the tune of \$222,000, something in the system is already broken. Breaking it further won't help.]

I guess I should be pleased that our representatives are working so closely with the recording and movie industries on this bill, but I think I'd be happier if they were working closely with those they are supposed to represent — their constituents. Trouble is...their constituents will re-elect them anyway.]

AmigaMCCC News

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P.O. Box 813

Bedford, Texas 76095

<http://www.amigamccc.org>

January Calendar

January 16 — Amiga By-The-Loop Chapter
7:00 pm — **South** Grand Prairie Public Library
760 Bardin Road, Grand Prairie
**Note: Wednesday meeting at
South GP Library**

January 16— MCCC Board of Director's Meeting
Approx. 9:15 pm — Location TBD

January 26 — Newsletter Deadline — 7:00 am

